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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/662,993	09/15/2003	Todd A. Mays	0003-032P1	2248
40972	7590	03/07/2005	EXAMINER	
HENNEMAN & SAUNDERS 714 WEST MICHIGAN AVENUE THREE RIVERS, MI 49093			BOCHNA, DAVID	
			ART UNIT	PAPER NUMBER
			3679	

DATE MAILED: 03/07/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

10/662,993

Applicant(s)

MAYS, TODD A.

Examiner

David E. Bochna

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 23 December 2004.
- 2a) ☒ This action is FINAL. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-33 is/are pending in the application.
- 4a) Of the above claim(s) 32 and 33 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-10 and 12-31 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

## **DETAILED ACTION**

### ***Election/Restrictions***

1. Newly submitted claims 32-33 are directed to an invention that is independent or distinct from the invention originally claimed for the following reasons: The original pipe fitting claimed did not require the step of attaching three pipes to the three openings of the fitting.

Since applicant has received an action on the merits for the originally presented invention, this invention has been constructively elected by original presentation for prosecution on the merits. Accordingly, claims 32-33 are withdrawn from consideration as being directed to a non-elected invention. See 37 CFR 1.142(b) and MPEP § 821.03.

### ***Claim Rejections - 35 USC § 103***

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 1 and 16-17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Sisk 5,387,015 in view of Henry, III.

In regard to claim 1, Sisk discloses (figs. 4-6) a pipe fitting comprising:

a run tube 34 including a cylindrical wall defining a first end opening, a second end opening, and an elongated throat opening;

a branch tube fitting 14 defining a fluid passage, and

a tapered throat section 18 coupled between said elongated throat opening and said branch tube fitting. Sisk discloses using the tee fitting to transfer food products, but Sisk does

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not specifically disclose that the fitting is part of a winery piping system. Henry, III demonstrates that using tee connections, with three wine product lines attached to the tee, in winery piping systems is common and well known in the art. Therefore it would have been obvious to use the tee fitting of Sisk in a winery piping system, because the practice of using tee fittings in winery systems is common and well known in the art, as demonstrated by Henry, III.

In regard to claim 16, wherein said throat section includes a first side wall 28 and a second side wall 46, said first side wall and said second side wall each defining a radius of curvature 46 between said run tube and said branch tube fitting.

In regard to claim 17, wherein said fluid passage 33 is generally circular; and said radius of curvature 46 is at least 1.5 times the diameter of at least one of said first end opening, said second end opening, and said fluid passage.

4. Claims 1-4, 7-10, 13-16, 18-23 and 26-31 are rejected under 35 U.S.C. 103(a) as being unpatentable over Turpin et al. in view of Henry, III.

In regard to claim 1, Turpin et al. discloses a pipe fitting comprising:

a run tube 5 including a cylindrical wall defining a first end opening, a second end opening, and an elongated throat 11 opening;

a branch tube fitting 10 defining a fluid passage, and

a tapered throat section 11 coupled between said elongated throat opening and said branch tube fitting. Turpin et al. discloses using the tee fitting to transfer fluid, but Turpin et al. does not specifically disclose that the fitting is part of a winery piping system. Henry, III demonstrates that using tee connections in winery piping systems is common and well known in the art. Therefore it would have been obvious to use the tee fitting of Turpin et al. in a winery

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pipng system, because the practice of using tee fittings in winery systems is common and well known in the art, as demonstrated by Henry, III.

In regard to claim 2, wherein said first end opening 7 is parallel to said second end opening 8.

In regard to claim 3, wherein said throat opening extends a majority of the length of said run tube 5.

In regard to claim 4, wherein at least one of said first end opening and said second end opening include a fitting 8 for coupling said at least one of said first end opening and said second end opening to a piping system 1.

In regard to claim 7, wherein a branch tube 9 is interposed between said throat section 11 and the branch tube fitting 10.

In regard to claim 8, further including a collar 10 around said branch tube and adapted to couple said branch tube fitting to a piping system 3.

In regard to claim 9, wherein said branch tube fitting 10 comprises a flange (flange which bottom of seal abuts).

In regard to claim 10, wherein the cross sectional area of said elongated throat opening is at least 1.25 times greater than the cross sectional area of said fluid passage 6.

In regard to claim 13, the throat section 11 includes a front wall and a back wall; and the front wall and the back wall are tangentially coupled to the run tube (see fig. 3).

In regard to claim 14, a branch tube 9 is interposed between the throat section and the branch tube fitting; and the front wall and the back wall are coupled to the branch tube.

In regard to claim 15, the front wall and the back wall are flat (see fig. 3).

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In regard to claim 16, the throat section includes a first side wall and a second side wall (where 11 is pointing in fig. 2), the first side wall and the second side wall each defining a radius of curvature between the run tube and the branch tube fitting.

In regard to claim 18, Turpin et al. discloses a pipe fitting comprising:

A body defining a generally triangular inner chamber 11; and

three connectors 7, 8, 10, each coupled to a respective corner of the triangular chamber for providing fluid communication with the chamber. Turpin et al. discloses using the tee fitting to transfer fluid, but Turpin et al. does not specifically disclose that the fitting is part of a winery piping system. Henry, III demonstrates that using tee connections in winery piping systems is common and well known in the art. Therefore it would have been obvious to use the tee fitting of Turpin et al. in a winery piping system, because the practice of using tee fittings in winery systems is common and well known in the art, as demonstrated by Henry, III.

In regard to claim 19, the body defines three fluid passages, each of the fluid passages in fluid communication with a respective one of the connectors.

In regard to claim 20, wherein said body defines a radius of curvature between two adjacent ones of said fluid passages.

In regard to claim 21, wherein each of said fluid passages is generally circular; and said radius of curvature is greater than 1.5 times the diameter of a largest one of said fluid passages.

In regard to claim 22, wherein said radius of curvature is infinite.

In regard to claim 23, wherein a tube 9 is interposed between at least one of said connectors and an associated corner of said chamber.

In regard to claim 26 Turpin et al. discloses a pipe fitting comprising:

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a tube having a cylindrical wall 5 defining a first end opening, a second end opening, and a throat opening 11;

a connector 10 defining a fluid passage; and

a throat section 11 coupled between said throat opening and said connector; and

wherein a cross-sectional area of said throat opening is at least 1.25 times greater than a cross-sectional area of said fluid passage. Turpin et al. discloses using the tee fitting to transfer fluid, but Turpin et al. does not specifically disclose that the fitting is part of a winery piping system. Henry, III demonstrates that using tee connections in winery piping systems is common and well known in the art. Therefore it would have been obvious to use the tee fitting of Turpin et al. in a winery piping system, because the practice of using tee fittings in winery systems is common and well known in the art, as demonstrated by Henry, III.

In regard to claim 27, wherein said cross-sectional area of said throat opening is at least two times greater than said cross-sectional area of said fluid passage.

In regard to claim 28, wherein said cross-sectional area of said throat opening is at least three times greater than said cross-sectional area of said fluid passage.

In regard to claim 29, wherein said throat opening is elongated.

In regard to claim 30, wherein said throat section, in combination with a portion of said tube, forms a generally triangular inner chamber.

In regard to claim 31, wherein at least one of said first end opening and said second end opening include a connector 8 for connecting said at least one of said first opening and said second opening to a piping system 1.

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5. Claims 5-6 and 24-25 are rejected under 35 U.S.C. 103(a) as being unpatentable over Turpin et al. in view of Henry, III and further in view of Lundstrom. Turpin et al. discloses a collar 8 on one of the connectors, creating a bell for housing a seal and accepting an adjacent pipe that is inserted into the bell, but Turpin et al. does not disclose adding a flange that is retained by the collar. Lundstrom teaches adding a flange 14 that is retained by a collar 70a on a T-fitting in order to better secure an adjacent pipe 62 that is inserted into the packed bell 70 of the T-fitting. Therefore it would have been obvious to a person having ordinary skill in the art at the time the invention was made to add a flange around the collar of Turpin et al., as taught by Lundstrom, in order to provide a more secure system for securing adjacent pipes to the T-fitting. Claim 12 is rejected under 35 U.S.C. 103(a) as being unpatentable over Turpin et al. Turpin et al. discloses a coupling as described above, but does not specifically disclose what material the T-fitting is made out of. However, it would have been obvious to one of ordinary skill in the art to make the T-fitting out of stainless steel because the selection of a known material based upon its suitability for the intended use is a design consideration within the skill of the art. In re Leshin, 227 F.2d 197, 125 USPQ 416 (CCPA 1960).

### ***Response to Arguments***

6. Applicant's arguments with respect to claims 1-10, 12-31 have been considered but are moot in view of the new ground(s) of rejection.

### ***Conclusion***

7. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).




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A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to David Bochna whose telephone number is (703) 306-9040. The examiner can normally be reached on 8-5:30 Monday-Thursday and every other Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Daniel P. Stodola can be reached on (703) 308-2686. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-2168.

  
**David Bochna**  
**Primary Examiner**  
**Art Unit 3679**  
**March 3, 2005**